

From: Morning Energy [morningenergy@politico.com]
Sent: 8/16/2018 2:04:18 PM
To: Feeley, Drew (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=abae82aa36da4d3383eae19a8efa683c-Feeley, Rob]
Subject: POLITICO's Morning Energy: Trump's not-so simple math — Judge orders update of Keystone XL study — States' rights get tricky over water

By Kelsey Tamborrino | 08/16/2018 10:00 AM EDT

With help from Ben Lefebvre and Annie Snider

A NUMBERS GAME: The White House's plan to rewrite the Obama administration's cornerstone climate rule for power plants may be based on some fuzzy math, setting up a potentially brutal court battle for the Justice Department. The legally risky strategy, POLITICO's Alex Guillén and Emily Holden report, calls for redoing the calculations of how much the rule would cost and who would benefit.

EPA's proposed replacement plan is expected to be unveiled any day now and will likely downplay a key feature of the Obama-era greenhouse rule: the money saved by using less electricity. Some expect EPA will also count only a fraction of the improvements in public health from reduced smog and soot pollution, Alex and Emily report, and it won't consider any benefits from slowing climate change outside the U.S.

In doing so, President Donald Trump's EPA will argue that the Obama-era rule had higher costs and fewer benefits than previously stated, a change to help improve the comparison when it unveils its own proposal. The Obama administration had estimated that the benefits from its rule would outstrip the costs by \$26 billion to \$45 billion by 2030, though supporters of that version say those net benefits could be even higher now.

In fact, math could become vital to the success or failure of several of Trump's rules. Critics say similarly fuzzy math underlies other Trump administration proposals to reverse or stymie action on climate change, such as a recent plan by EPA and the Department of Transportation to halt a planned tightening of fuel efficiency standards for cars and trucks. "They are cooking the books on technical analysis to try to justify preconceived conclusions that these regulations are bad," said David Doniger, senior strategic director of the Natural Resources Defense Council's climate program who was influential in the Obama EPA's crafting of the original rule. Read more.

GOOD THURSDAY MORNING! I'm your host, Kelsey Tamborrino. Many of you knew, but ClearView Energy Partners' Mitch Huber was the first to correctly answer that it's Loretta and Linda Sanchez who were the first and only sisters to serve simultaneously in Congress. For today: How many current senators are also former mayors? Bonus points if you can name them. Send your tips, energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter [@kelseytam](https://twitter.com/kelseytam), [@Morning_Energy](https://twitter.com/Morning_Energy) and [@POLITICOPro](https://twitter.com/POLITICOPro).

DO THAT AGAIN: The Trump administration was ordered Wednesday to update an environmental study of the Keystone XL pipeline despite its contention the alternative route picked last year by Nebraska regulators didn't require an updated environmental impact statement. Instead, Judge Brian Morris of the U.S. District Court for Montana ordered the State Department to go back to its 2014 EIS to take into account the new route, Alex reports for Pros. Morris said the State Department still has a "meaningful opportunity to evaluate" the alternative route that was picked in Nebraska. However, he declined environmentalists' request that Trump's permit be vacated.

STATES' RIGHTS GET TRICKY OVER WATER: The roiling debate over states' right to halt development projects over their water quality effects heads to the Senate Environment and Public Works Committee today. The panel will hold a legislative hearing on a bill from Chairman John Barrasso, S. 3303 (115), the Water Quality Certification Improvement Act of 2018. The measure would limit states' authority under Section 401 of the Clean Water Act, which requires states to certify that projects won't harm their water quality standards before the federal government issues a permit. In recent years a handful of Democratic-led states have used that authority to block natural gas pipelines. Republican Maryland Gov. Larry Hogan is also using the authority to try to force Exelon Corp. to clean up nutrient pollution flowing through one of its dams that harms the Chesapeake Bay.

GOP lawmakers have backed earlier efforts to limit or remove the authority, including in this year's House Appropriations bill, House and Senate energy legislation and standalone bills. But the Western Governors Association, which represents a number of Republican governors, has come out in opposition to reining in states' authority, and the Environmental Council of the States warned Wednesday that such moves could have unintended consequences. **If you go:** The hearing begins at 10 a.m. in 406 Dirksen.

NOMINATIONS ON TAP: Two nominees to the Energy Department will testify before the Senate Energy and Natural Resources Committee this morning: Bill Cooper to be general counsel and Lane Genatowski for director of the Advanced Research Projects Agency-Energy, which the Trump administration has sought to eliminate.

Who are they? Cooper serves as senior counsel and director of the McConnell Valdés law firm. Prior to that he was a subcommittee staff director for House Natural Resources, with a particular policy focus on the National Environmental Policy Act that the White House has sought to change up. Cooper also previously was president of the Center for Liquefied Natural Gas and counsel to the House Energy and Commerce Committee. His credentials have earned him the backing of industry groups, including the Air-Conditioning, Heating, and Refrigeration Institute, the Interstate Natural Gas Association of America, and the Electric Reliability Coordinating Council.

— **Genatowski hails from** a banking background. He's managing partner in investments at Dividend Advisors, a firm he founded in 2012. Genatowski before that was an energy investment banker at JPMorgan Chase and other Wall Street giants. His résumé lines up with others in Rick Perry's Energy Department, which has focused more on businessmen with energy-sector experience. **If you go:** The hearing kicks off at 10 a.m. in 366 Dirksen.

RESCISSIONS — TAKE TWO: The Trump administration is once again weighing a so-called rescissions package to force Congress to roll back federal spending, with just weeks to go until the next budget deadline, Pro's Sarah Ferris and John Bresnahan report. Senate Appropriations Chairman Richard Shelby said Wednesday he was told about the idea: "I heard they were thinking about one, but I haven't seen it." But a Senate leadership source said OMB chief Mick Mulvaney has already begun moving ahead on the effort.

FLORIDA DRILLING BITS: To drill or not to drill off the Florida coast is a question once again heating up the state's election campaigns. Gwen Graham, the current front-runner in the Democratic gubernatorial primary field, sent out a message titled "Drilling 75 Miles off Florida's Beaches is Insane" after a POLITICO report highlighted the idea as one that oil industry lobbyists are pushing to have included in the Interior Department's upcoming offshore drilling plan. Sunshine State Democratic Sen. Bill Nelson took the story to the Senate floor to try to whack current Gov. Rick Scott, who is running to replace him and earlier this year got help from Trump on the drilling issue.

REMEMBRANCE OF TARBALLS PAST: Former Florida Lt. Gov. Jeff Kottkamp is catching heat for his statement at a pro-drilling rally in Tallahassee that oil from the Deepwater Horizon spill "didn't even reach the shores of Florida." The remark, as first reported in the Florida Phoenix, may have surprised those who

remember former Gov. Charlie Crist squatting over oil-stained beaches in Pensacola. Kottkamp, who was speaking as co-chair of Explore Offshore Florida, went on to say "tarballs are naturally occurring." Earthjustice staff attorney Bradley Marshall called it "absurd to claim the Deepwater Horizon spill did not reach Florida" given the damage the state experienced. "That's why so many of Florida's leaders, regardless of what political party they belong to, have been so protective of our coasts all these years," he said in a statement.

WHAT'S THE RISK? EPA acting Administrator Andrew Wheeler delivered a video address at the National Environmental Justice Advisory Council's public meeting in Boston on Wednesday where he acknowledged the need for improvement in risk communication and noted the agency owes it to the American public to improve. "How well or how poorly we communicate risk disproportionately impacts those on the lower end of the socioeconomic ladder," he said. "We have fallen short in the past from our response to the Gold King Mine in Colorado, to the Kanawha River in West Virginia, to Flint, Mich." Watch it here.

CASE CLOSED: Interior's Office of Inspector General has closed its investigation into an allegation made against National Park Service officials. The claim centered around references to human-caused climate change in a report on sea-level rise and storm surge projections that officials allegedly sought to remove. The watchdog office said Wednesday that shortly after it opened the investigation, the NPS "published the report with all original references to human-caused climate change," thus prompting it to close its probe.

'SECRET' AGENTS: Comments are due today on EPA's proposed "scientific transparency" rule, which would ban the use of studies that don't publicly disclose all their data. Experts have said that plan could prohibit the use of vital studies on how pollutants affect human health because researchers typically promise to keep subjects' health information confidential. But conservatives have long accused the agency of relying on "secret science," prompting former Administrator Scott Pruitt to unveil the proposal in the name of transparency.

Under the wire: With the comment deadline approaching, nearly 80 groups, including the Union of Concerned Scientists, Sierra Club and Moms Clean Air Force, signed onto a letter Wednesday calling on Wheeler to withdraw the so-called secret science proposal. Separately, 66 health and medical organizations sent comments to Wheeler in opposition to the proposed rule. That's not to say there isn't support for the proposal; several comments posted Wednesday echoed the refrain that scientists should be required to "show your work."

AFTER THE STORM: The nonprofit Environmental Integrity Project released a new report today leading up to the one-year anniversary of Hurricane Harvey's widespread destruction in Texas. Using records from the Texas Commission on Environmental Quality, the report looks at air pollution during and after the storm as well as the government's and industries' response, and makes recommendations for the future. The "Preparing for the Next Storm" report found that all five of the largest industrial air pollution releases during Harvey were in the Houston area — with the Magellan Galena Park Terminal the biggest polluter, releasing 2,472,402 pounds of air pollution.

Harvey also triggered the release of at least 8.3 million pounds of unpermitted air pollution from petrochemical plants, according to the EIP report. And in the nine months after Harvey, "18 companies revised their air pollution reports to the state to erase 1.7 million pounds of unpermitted emissions during Hurricane Harvey," the report found.

LET'S MAKE A DEAL: Trump might soon strike a deal with Mexico on NAFTA, even as a trade war plays out with the rest of the world, POLITICO's Megan Cassella reports. The apparent turnaround after months of stalemate arrives as Mexican Secretary of Economy Ildefonso Guajardo visited Washington on Wednesday to hammer out some of the most contentious issues on NAFTA. "Both U.S. and Mexican officials now say they could be on the verge of announcing a preliminary agreement on everything from complicated automotive rules to environmental regulations by the end of August," Megan reports.

CATCHING FIRE: Agriculture Secretary Sonny Perdue will join Senate Energy ranking member [Maria Cantwell](#) and Sens. [Steve Daines](#) and [Ron Wyden](#) to unveil a new federal plan for addressing wildfires. Earlier this year, Perdue and Cantwell [worked together](#) on a commitment to use unmanned aircraft technology this fire season, and the Washington Democrat will likely highlight similar tools and technology today. Watch the [livestream here](#).

POLL: CLIMATE A FACTOR FOR MOST: Slightly more than half (53 percent) of U.S. voters believe climate change is a factor in making the ongoing California wildfires more extreme, while 39 percent say it's not, according to a new poll from Quinnipiac University [released](#) Wednesday. Sixty-four percent of voters said they think the country is not doing enough to address climate change, the national poll found. Eighteen percent of voters say the U.S. is doing enough to address the issue, while 10 percent say the U.S. is doing too much.

— **On a related note**, the Natural Resources Defense Council launched [a tracker](#) this week to see where every state's lawmakers stand on offshore drilling.

QUICK HITS

— "A coal company and Interior teamed up to save a power plant," [E&E News](#).

— "FirstEnergy Solutions takes next step toward closure of nuclear power plants," [Akron Business Journal](#).

— "A rising concern? After straws, balloons get more scrutiny," [The Associated Press](#).

— "Will Washington State Voters Make History on Climate Change?" [The Atlantic](#).

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